

## MEMORANDUM

**DRAFT**

**TO:** The Development Review Committee

**FROM:** Julianne Thomas, Planner

**DATE:** April 19, 2006

**MEETING DATE:** April 25, 2006

**RE: REVISIONS TO MONROE COUNTY LAND DEVELOPMENT  
REGULATIONS, SECTIONS 9.5-4 (Definitions), and 9.5-349  
(Shoreline Setback).**

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### **I BACKGROUND**

The proposed amendments to Sections 9.5-4, 9.5-256 (Aggregation of Development) and 9.5-349 (Shoreline Setback) of the Monroe County Land Development Regulations (LDRs) will add some definitions needed to clarify land use in Monroe County.

### **II SUMMARY**

The proposed changes are as follows:

#### 1. MODIFY THE DEFINITION FOR ACCESSORY USES:

The current code §9.5-4 (A-2) defines accessory uses. Staff has added to the section that a dock built on an adjacent lot as defined in §9.5-4 (A-4) will also be allowed as an accessory use. Staff has also restructured the definition to make it easier to apply and understand.

#### 2. DEFINES ADJACENT LOT

The current code §9.5-4 does not have a definition for Adjacent Lot. Staff has provided a definition of adjacent lot and set forth criteria when an adjacent lot can be used to build a dock.

#### 3. DEFINES AGGREGATE AND AGGREGATION

The current code §9.5-4 does not have a definition for Aggregate or Aggregation. Staff has provided a definition and set forth criteria when lots can be aggregated. Staff has also provided illustrations to help clarify the definition.

#### 4. MODIFY THE DEFINITION FOR CONTIGUOUS:

The current code §9.5-4 (C-23) defines accessory uses. Staff has modified the section to provide greater clarity.

#### 5. MODIFY SHORELINE SETBACK – DOCKING FACILITIES

The text amendment modifies the docking facilities explanation so it is consistent with the new definitions laid out in the LDR.

### **III FINDINGS OF FACT**

1. Staff finds that the proposed changes are consistent with Section 9.5-511(d)(5)b.(i) and (ii) “changed projections” and “changed assumptions”.
2. Staff finds the amendment consistent with the goals, objectives, and policies of the Monroe County Year 2010 Comprehensive Plan.
3. Staff finds the amendment consistent with F.A.C. Chapters 9J-5, Florida Statutes, Chapter 163, and The Principles for Guiding Development.

### **IV PROPOSED TEXT CHANGE**

Please see attached Ordinance.

### **VI RECOMMENDED ACTION:**

Based on the Findings of Fact above, the Development Review Committee recommends **APPROVAL** of the proposed text change to Sections 9.5-4, and 9.5-349 (Shoreline Setback) of the Monroe County Land Development Regulations.

## ORDINANCE NO. \_\_\_\_ - 2006

**AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING AND ADDING TO THE DEFINITIONS (§9.5-4); AMENDING THE SHORELINE SETBACKS (§ 9.5-349); PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a need has been recognized to allow docks on adjacent lots; and

**WHEREAS**, the current land development regulations do not provide a mechanism to allow docks on adjacent lots, and

**WHEREAS**, a need has been recognized to define and allow aggregation of contiguous properties, and

**WHEREAS**, the current land development regulations do not provide definitions or procedures for aggregation that meet the needs of Monroe County residents, and

**WHEREAS**, Federal and State law grants power to Monroe County to regulate and restrict the use of land and buildings in order to promote the safety and general welfare of its citizens; and

**WHEREAS**, Monroe County has adopted land use goals, policies, and objectives in a comprehensive plan to guide policy on building and land use regulations, and to promote health, safety, and general welfare; and

**WHEREAS**, the provision of this ordinance are consistent with the Monroe County Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THE FOLLOWING:**

That the preceding findings support its decision to **APPROVE** the amendments to the Land Development Regulations as provided herein:

**PROPOSED TEXT CHANGES** are presented in ~~striketrough~~ to indicate deletions and underline to indicate additions.

### **Section 1**

**Amend and Add to §9.5-4 Definitions as follows:**

- (A-2) Accessory uses or accessory structures means a use or structure that is subordinate to and serves a principal use or structure; and
  - a) is subordinate in area, extent and purpose to the principal use or structure

- served; and
- b) contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and
- c) is located on the same lot or on contiguous lots under the same ownership and in the same land use district as the principal use or structure except in the case of docks located in residential land use districts which may be located on adjacent lots as defined in this section.
- d) Accessory uses include the utilization of yards for home gardens provided that the produce of the garden is for noncommercial purpose; ~~however,~~
- e) In no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located, and in no event shall an accessory use or structure including docks be established prior to the principal use to which it is accessory.
- f) Accessory uses shall not include guest units or any other potentially habitable structure. Habitable structures are considered to be dwelling units as defined below in this section.

(A-4) *Adjacent lot* is a lot within 500 feet as the crow flies, US-1, roads greater than 24 feet and waterways will be considered a break in adjacency.

An adjacent lot may be used to construct one accessory dock if:

- a) the lot containing the principal structure is within 500 feet; and
- b) the adjacent lot is in the same tier or a less restrictive tier as the lot with the principal structure; and
- c) the principal structure has been a lawfully established dwelling unit; and
- d) each dock may be permitted a shed without electricity or plumbing that is less than 100 sq. ft. in size.

(A-7) *Aggregate or Aggregation* means to combine contiguous lots that share at least 50% or more of the border of the smaller lot or at least 100 linear feet (Example 1, Example 2, Example 3, Example 4).

Except when aggregated lots are used to meet required off-street parking standards per §9.5-352(h)(3)a., aggregated lots must meet the following conditions:

- a) If the aggregated lots are separated by a road, the area of the road can not be used in computing density for housing, open space or floor area unless the road has been abandoned.
- b) Aggregated lots must share unity of title.
- c) Development will take place in the least environmentally sensitive area and on the less restrictive tier.
- d) Before a certificate of occupancy or final inspection approval may be issued for any structure, portion, or phase of a project subject to this division a grant of conservation easement running in favor of Monroe County shall be approved by the growth management director and the county attorney and recorded in the

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Official Public Records of Monroe County. The conservation easement shall state the amount of required upland native vegetation open space and prohibit activities within that open space, including removal, trimming or pruning of native vegetation; acts detrimental to wildlife or wildlife habitat preservation; excavation, dredging, removal or manipulation of the substrate; activities detrimental to drainage, flood control, or water or soil conservation; dumping or placing soil, trash, or other materials; and any other restrictions as may be stated on the conservation easement.

e) No building permit shall be issued for the units on the development site until restoration of the sender site is complete consistent with an approved restoration/revegetation plan.

f) In IS subdivisions only one unit/lot is permitted.

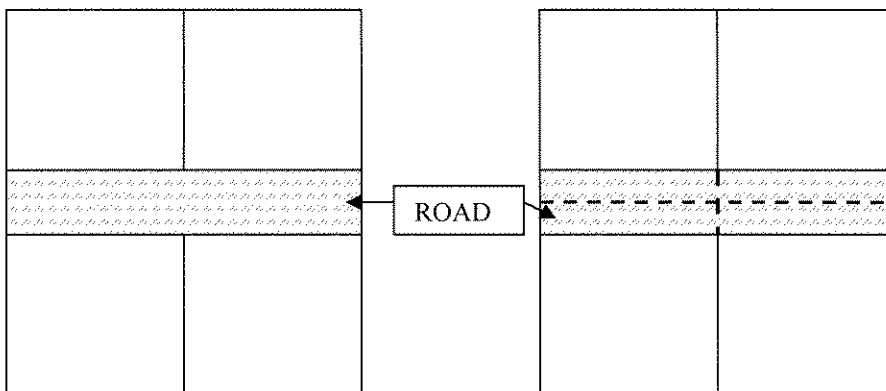
Density will be protected per §9.5-268.

(C-23)Contiguous means sharing of a common border at more than a single point of intersection. Contiguity is not interrupted by utility easements or roads less than 24 feet wide. Contiguity is interrupted by intervening natural or manmade waterways, US 1, roads greater than 24 feet wide and easements other than utility easements.

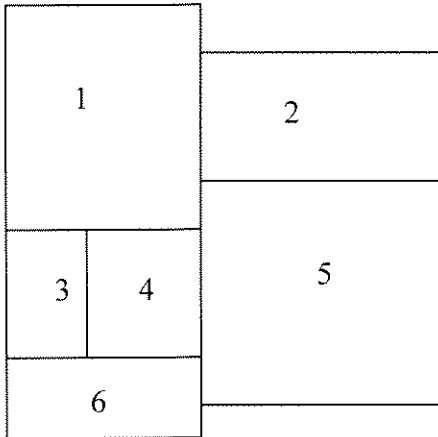
Example 1: Lot 1 and Lot 2 are contiguous; Lot 2 and Lot 3 are contiguous; Lot 1 and Lot 3 are not contiguous and cannot be aggregated without including Lot 2.



Example 2: All lots will be considered contiguous as the lot lines will be deemed to extend to center of the road as long as the road is not US 1 or wider than 24 feet. Please note that lot lines match up. The four lots can be aggregated. Lot 1 and Lot 4 are not contiguous and can not be aggregated without including either Lot 2 or 3. Lot 2 and Lot 3 are not contiguous and can not be aggregated without including either Lot 1 and Lot 4.



Example 3: All lots could be considered contiguous if all lots are included.



Lot 1 is contiguous with Lot 2, Lot 3, Lot 4 and Lot 5. Lot 1 can be aggregated with Lot 2, Lot 3, and Lot 4. Lot 1 and Lot 5 can not be aggregated unless the lots meet for at least 100 ft. or Lot 2 and/or Lot 4 is included in the aggregation.

Lot 2 is contiguous and can be aggregated with Lot 1 and Lot 5.

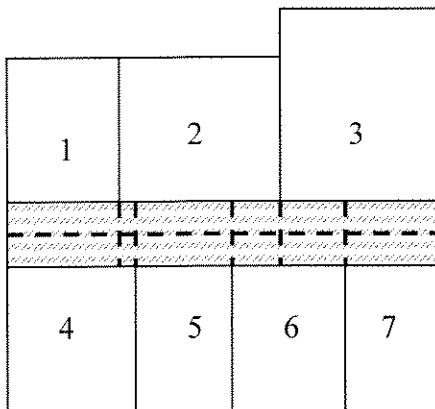
Lot 3 is contiguous and can be aggregated with Lot 1, Lot 4, and Lot 6

Lot 4 is contiguous and can be aggregated with Lot 1, Lot 3, Lot 5, and Lot 6.

Lot 5 is contiguous with Lot 1, Lot 2, Lot 4, and Lot 6. Lot 5 can be aggregated with Lot 2, Lot 4 and Lot 6. Lot 5 and Lot 1 can not be aggregated unless the lots meet for at least 100 ft. or Lot 2 and/or Lot 4 is included in the aggregation.

Lot 6 is contiguous and can be aggregated with Lot 3, Lot 4, and Lot 5.

Example 4: All lots would be considered contiguous if all lots are included. The road represented is less than 24 feet wide.



Lot 1 is contiguous and can be aggregated with Lot 2 and Lot 4.

Lot 2 is contiguous with Lot 1, Lot 3, Lot 4, Lot 5 and Lot 6. Lot 2 can be aggregated with Lot 1, Lot 3 and Lot 5. Lot 2 can be aggregated with Lot 4 if the lots share at 100 ft. or the aggregation includes either Lot 1 or Lot 5. Lot 2 can only be aggregated with Lot 6 is the lots share at least 100 ft. or the aggregation includes either Lot 3 or Lot 5.

Lot 3 is contiguous and can be aggregated with Lot 2, Lot 6 and Lot 7.

Lot 4 is contiguous with Lot 1, Lot 2 and Lot 5. Lot 4 can be aggregated with Lot 1 and Lot 5. Lot 4 can only be aggregated with Lot 2 if the lots share at least 100 ft. or the aggregation includes either Lot 1 or Lot 5.

Lot 5 is contiguous and can be aggregated with Lot 2, Lot 4 and Lot 6.

Lot 6 is contiguous with Lot 2, Lot 3, Lot 5 and Lot 7. Lot 6 can be aggregated with Lot 3, Lot 5 and Lot 7. Lot 6 can only be aggregated with Lot 2 if the lots share at least 100 ft. or the aggregation includes either Lot 3 or Lot 5.

Lot 7 is contiguous and can be aggregated with Lot 3 and Lot 6.

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**Section 2**

**AMEND § 9.5-349. Shoreline setback as follows:**

- (m) *Docking Facilities:* Docking facilities shall be permitted, provided that:
- (4) Notwithstanding the provisions of section 9.5-4(A-2), docking facilities may be constructed on adjacent parcels as defined in § 9.5-4 (A-4).~~under the same ownership and within the same zoning district, provided that a legally established principal use and/or structure exists on one (1) parcel.~~ In the event that ownership of the adjacent parcel containing such an accessory dock is severed from the parcel containing the principal use/structure, the dock must be removed and the shoreline restored.

**Section 3. Severability.**

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 4. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

**Section 5. Effective Date.**

This ordinance shall become effective as provided by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Mayor Charles "Sonny" McCoy  
Mayor Pro Tem Murray Nelson  
Commissioner Dixie Spehar  
Commissioner George Neugent  
Commissioner David Rice

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BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

**DRAFT**

BY: \_\_\_\_\_  
Mayor Charles "Sonny" McCoy

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_  
Deputy Clerk